



Standby Charge for Embedded Electricity Generation (Guernsey)

Draft Decision

Document No: CICRA 18 / 54

20 December 2018

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1. Executive Summary

Following its Call for Information in July 2018 (CICRA 18/30) (the **Call for Information**), the Guernsey Competition and Regulatory Authority (**GCRA**) is issuing this Draft Decision with regards to standby charges for embedded electricity generation applied by Guernsey Electricity Limited (**GEL**).

Taking into account the responses to the GCRA's Call for Information, the GCRA remains of the view that there is no historic justification to the standby charge applied by GEL, it is high compared to elsewhere to the extent we can find comparators and should as an interim measure be reduced forthwith until a full review has been undertaken on the appropriate level. This immediate response to the reduction in standby charges is required as a result of the credible risk to competition in the energy market should the current level remain.

Notwithstanding the view that the basis for the current rate applied by GEL is unclear, the GCRA also remains of the opinion that the underlying rationale for such a charge is reasonable. Accordingly, rather than set the rate at zero as proposed in the Call for Information, the GCRA considers that it would be appropriate to set the standby charge at a rate above zero. In view of the limited timing to introduce the reduced rate, the GCRA is of the view that in the short term it is appropriate to adopt the rate as concluded in the review of the Jersey Electricity Company (**JEC**)'s proposed rate in Jersey.

Accordingly, this Draft Decision proposes a reduction in the standby charge set by GEL to £3.07/kW/month for the immediate future for parties who would otherwise have to pay the charge, subject to those parties agreeing to reimburse GEL should a subsequent regulatory decision (or a decision of comparable legal standing) set a different rate, and again for GEL to reimburse those parties should the rate be too high.

In view of the effect a delay to reducing standby charges would have on competition within the energy market in Guernsey, this rate of £3.07/kW/month will be introduced as an interim measure. Following the issuing of a final decision in the statutory process, a full review should be undertaken of the standby charge to be applied by GEL and a level of charge justified by the evidence should then be set.

2. Introduction

A standby charge is a monthly charge levied by GEL on customers with embedded generation capacity based on their installed capacity.

The issue of the level of standby charges is a matter under review by governments and regulators in many European jurisdictions. By way of illustration, the JEC has voluntarily agreed to defer application of its standby charge pending outcome of a review commissioned by the States of Jersey. JEC's proposed rate currently under voluntary review is £3.10 per kW excl GST (i.e. £3.25 incl GST) for installations up to 50kW. The charge set by GEL is £6.8594 per kW i.e. more than double.

The current standby charge applied by GEL has not been the subject of any specific review by the GCRA. The last review by the GCRA of GEL's tariffs was in 2012 but that review (and earlier reviews) did not focus on the structure of every tariff as such an approach at the time would have been disproportionate in view of the intensive resource requirements that would have had to be placed on both the GCRA and GEL.

Whilst to date no specific review has been undertaken by the GCRA into the standby charges, a complaint has been raised by International Energy Group (**IEG**) that the current level of standby charges is a barrier to its ability to provide a service and compete with GEL. In order to fulfil its duties, including particularly with regard to that of introducing, maintaining and promoting effective and sustainable competition in the provision of utility services in the Bailiwick, the GCRA considers it appropriate to act in response to this complaint.

The rate currently applied by GEL is one that has not been set by the GCRA as regulator but has been determined by GEL. In view of the rates applied in other jurisdictions, and the lack of historic justification for the level of charge in Guernsey, the GCRA considered the standby charge applied by GEL to be high compared to elsewhere to the extent we can find comparators. An assessment therefore needed to be conducted which looked at whether the standby charge should be reduced and if so to what level and by when.

Accordingly, in July 2018 the GCRA issued a Call for Information to which seven responses were received. This document sets out the responses received to that Call for Information and the Draft Decision for future standby charges.

This document summarises the issues involved, and sets out the directions that the GCRA proposes to issue to GEL under condition 20.2 of the licence issued to GEL. This Draft Decision provides interested parties with a further opportunity to comment on its proposed directions, prior to the GCRA issuing its Decision as part of the pre-statutory process.

3. Structure of the document

This document constitutes a Draft Decision. The document sets out the conclusions which the GCRA has reached, having taken full account of responses to the Call for Information and having carried out further research to ensure it has fully addressed respondents' points. The document contains summaries of particular points raised to illustrate the GCRA's reasoning.

This document broadly follows the structure of the Call for Information and is organised around the questions that were posed in that consultation. It is structured as follows:

Section 4	Outlines the legal requirements and licensing framework
Section 5	Sets out the basis for reducing Standby Charges
Section 6	Summarises and responds to points made by the respondents to the consultation
Section 7	Contains the Draft Decision
Section 8	Timeframe for Responses

Respondents are requested to comment on the Draft Decision. All comments should be submitted before 5.00pm on **Thursday 31 January 2019** to:

Guernsey Competition and Regulatory Authority
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Plaiderie Chambers
La Plaiderie
St Peter Port
Guernsey, GY1 1WG
Email: info@cicra.gg

All comments should be clearly marked '*Comments on the Draft Decision – Standby Charge for Embedded Electricity Generation*'.

In line with CICRA's consultation policy, CICRA intends to make responses to the consultation available on the CICRA website, the combined website of the GCRA and JCRA. Any material that is confidential should be put in a separate annex and clearly marked as such so that it may be kept confidential. CICRA regrets that it is not in a position to respond individually to the responses to this consultation.

4. Legislative and Licensing Background

Current Licensing Regime

The States of Guernsey has issued a number of States Directions in relation to the licensing of electricity activities in Guernsey. In accordance with those Directions the GCRA (formerly the Director General) issued the first licences for electricity generation, conveyance and supply to the incumbent electricity company – GEL - on 1st February 2002.

The market for generating electricity is, in principle, open to competition. In terms of conveyance, under the current regime no other operator can lay electricity cables and anyone generating electricity must therefore use the existing electricity network of GEL to convey that electricity from their generation plant to customers.

Legal Background

Under the Regulation of Utilities (Bailiwick of Guernsey) Law 2001 (the **Utilities Law**), the objectives that the GCRA has a duty to promote (and, where they conflict, to balance) must be achieved in a way that gives equal regard to the interests of the residents of all islands of the Bailiwick. They include protecting the interests of consumers and other users in Guernsey in respect of the prices charged for electricity services.

Detailed provision for the regulation of electricity in Guernsey is contained in The Electricity (Guernsey) Law 2001 (the **Electricity Law**). Section 5 provides that the Authority may include in licences such conditions as appear to the Authority to be appropriate having regard to the nature of the application for the licence, the objectives set out in the Utilities Law, and the enforcement of the Utilities Law and the Electricity Law. The Electricity Law specifically provides that such conditions can include (but are not limited to):

- Conditions intended to prevent and control anti-competitive behaviour; and
- Conditions regulating the prices, premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market.

These provisions allow the Authority to regulate Standby Charges, should there be a need for regulatory intervention.

Regulatory Framework

In a previous GCRA document (OUR03/07), proposed findings of market dominance in Guernsey were set out following a review of the market. The GCRA considered that GEL was dominant in generation, conveyance and supply of electricity.

The licence of GEC includes conditions in respect of Price Regulated Services (licence condition 20) and Fair Competition (licence condition 13).

In respect of Price Regulated Services, Condition 20.2 of the Licence provides that:

“The Director General may determine the maximum level of charges the Licensee may apply within a relevant market in which the Licensee has been found to be dominant. A determination may;

(a) provide for the overall limit to apply to such charges;

(b) restrict increases in any such charges or to require reductions in them whether by reference to any formula or otherwise; or

(c) provide for different limits to apply in relation to different periods of time falling within the periods to which any determination applies.”

In accordance with The Guernsey Competition and Regulatory Authority Ordinance 2012, reference to the Director General should be taken as referring to the GCRA.

Condition 20.1 allows the Authority to regulate the prices that the GEC charges for its services in a way and for a time that it deems appropriate, provided GEC has a dominant position in the relevant market.

As set out in OUR03/07, Guernsey’s retail electricity market possesses a monopolist/dominant operator that also has a dominant position through the electricity supply chain. This position of economic strength is unlikely to change in the near to medium future.

In respect of Fair Competition, Condition 13.1 of the Licence provides that:

“Subject only to the Licensee’s exclusive rights as described in Parts IV and V of this Licence, the Licensee shall:

(a) Not engage in any practice or enter into any arrangement that has the object or the likely effect of preventing, restricting or distorting competition in the Generation Business, Conveyance Business and/or Supply Business; and

(b) Comply with any direction issued by the Director General for the purpose of preventing any practice or arrangement that has the object or effect of preventing, restricting or distorting such competition.”

Condition 13.1 of the Licence thus provides that the GEC must comply with any Direction issued by the GCRA for the purpose of preventing any market abuse.

It follows that, before it can make a decision for the purpose of preventing market abuse under Condition 13.1 of the Licence, the GCRA must have made a determination that GEC holds a position of significant market power (dominance) in respect of the generation, conveyance and supply of electricity.

Process for Setting Interim Standby Charge Rate

In setting the interim standby charge rate the GCRA will follow the process as set out in its standard Regulatory Consultation Process Information Note.¹

This process has two stages:

- (a) pre-statutory stage; and
- (b) statutory stage.

The intention behind the two stages is to ensure that interested parties have an opportunity to comment separately on the proposed standby charge rate before the final statutory stage that will bring that rate into effect.

¹ CICRA 18/29

5. Basis of Reducing Standby Charges

Embedded Generation Technology

IEG has provided evidence that the current level of standby charges is a barrier to its ability to provide a service and compete with GEL. The rationale for this standby charge is that GEL is a provider of last resort when premises that source some or all of their electricity from alternative sources then turn to GEL when those are not available.

The technology IEG will use is successfully established elsewhere (winning auction bids in the UK and Ireland) and among the more competitive technologies in other jurisdictions, while standby charges are rare elsewhere and the GCRA is aware of no standby charges at a similar level to that set by GEL. From the GCRA's historic involvement as the regulator of GEL, no economic regulatory review set this particular charge. The rate of the standby charge is thus established by GEL.

Regulation

While there was a policy proposal from the Commerce and Employment Department in 2015 seeking to exempt GEL from the licensing and regulation provisions within the electricity laws by no later than 1 January 2016, this has not been implemented through legislative changes necessary to give effect to the Department's proposals. The GCRA therefore remains the economic regulator of the electricity sector in Guernsey in law and therefore has a duty to respond to the complaint raised by IEG.

A Call for Information paper was issued on 4 July 2018. Responses were received from two Guernsey departments, a group of private individuals, GEL, IEG and two other private businesses.

Having considered those responses and related evidence, in the judgement of the GCRA there is a credible risk that if this issue is not resolved in the short term a potential investor in this sector and competitor to the incumbent (i.e. IEG) will exit the market, with diminished choice and opportunity of lower prices for customers who might otherwise take up such an alternative service. Should this issue not be addressed as a matter of urgency, there is also the risk that GEL will look to take on customers which may have otherwise taken on a contract with IEG.

In normal circumstances an economic regulator would have been in a position to undertake a full review and resolve the dispute by setting a level of charge justified by the evidence it considered. In the current circumstances the GCRA has encouraged the parties to resolve matters commercially. However, IEG has been a licensee since 30 August 2017 but since that time it has been unable to reach a commercial arrangement with GEL.

The Call for Information indicated the current level of standby charge was high in comparison to elsewhere, was not common in other jurisdictions, and there appeared to be no historic justification for the level of the charge. The underlying rationale for such a category of charge did however seem to the GCRA to be reasonable, insofar as it provides funding for the provision of infrastructure required to provide a service in case of need. The responses

received to the Call for Information have not altered these views that the current level needs to be reduced. However, the GCRA is no longer of the view that the appropriate rate is zero and instead considers that a charge should be applied. In circumstances where the rate needs to be reduced imminently, as a short term measure the GCRA proposes to set GEL's maximum standby charge at the same rate as concluded in the review of the JEC's proposed standby charges in Jersey.

By way of background, in Jersey the JEC is not subject to economic regulation, although it is subject to the competition laws applying to the economy as a whole in Jersey. Accordingly, there being no explicit regulation of JEC's revenues or charges, the introduction of the reduced standby charge by the JEC is a voluntary arrangement. The JEC proposed a standby charge of £3.10/kW per month (excl GST) (i.e. £3.25 incl GST) to all new commercial customers choosing to install embedded generation of up to 50kW of installed capacity. The States of Jersey Department of Environment commissioned NERA Economic Consulting to assess whether this proposal is "fair and reasonable".

Having reviewed and appraised, *inter alia*, the detailed calculations underpinning the £3.25/kW charge, and assessing whether the structure of this charge is appropriate as a means of reflecting the costs associated with changes in embedded generation in Jersey, NERA Economic Consulting calculated a rate of £3.22/kW/month including GST, and thus £3.07/kW/month excluding GST. The GCRA acknowledges that this rate was calculated under a specific set of assumptions (e.g. if the embedded generator self-consumes at 50%) and that a higher standby charge could be arrived at if the methodology used to calculate the charge was revised and a higher self-consumption ratio was applied.

Further, notwithstanding that the GCRA proposes to charge the same rate as that concluded by NERA Economic Consulting as an interim measure, it is likely that the GCRA as an economic regulator would take into account a wider set of factors than those considered by NERA Economic Consulting when assessing whether a standby charge rate is "fair and reasonable", the result likely being a different figure than the £3.07/kW/month rate noted in the NERA Report.

GCRA's Duties

The GCRA has a number of duties set out in Part II of the Utilities Law. These include the obligation to protect the interests of consumers and other users in the Bailiwick in respect of the prices charged for, and the quality, service levels, permanence and variety of, utility services and to ensure that utility activities are carried out in such a way as best to serve and contribute to the economic and social development and well-being of the Bailiwick. It further includes the objective of introducing, maintaining and promoting effective and sustainable competition.

The above concerns with regard to the current standby charge appear to the GCRA as particularly relevant to a number of its duties referred to in Part II of the Utilities Law and are likely to outweigh any change of income faced by GEC by imposing a reduction in standby charges.

The urgency for the reduction in standby charges is informed not only by the unclear basis for the current rates as applied by GEC, but also the extent of the difference between standby charges in Guernsey and elsewhere, and the wider economic risks to Guernsey should the reduction not be brought into effect. The GCRA is aware of intentions by IEG to leave the Guernsey market should standby charges not be reduced with the result being consumers will suffer from no choice and the lost potential for the efficiencies and lower prices likely to be brought about through competition in the electricity sector. The GCRA is of the view that this is a significant issue with risks to the wider economy of Guernsey that must be taken into consideration in setting the immediate reduction in standby charges. To address concerns that the proposed rate may be too high or too low, the reduced rate should only apply where the customer agrees to reimburse GEL should a subsequent regulatory decision (or of comparable legal standing) set a different rate and GEL to reimburse the customer where the final reviewed rate is lower.

6. Consultation Responses

7.1 Introduction

A total of seven responses were received to the Call for Information - two Guernsey departments, a group of private individuals, GEL, IEG and two other private businesses.

7.2 Proposed principles for reviewing the Standby Charge

The Call for Information sought views on the principles that should be applied to resolving the complaint set out in that document. In assessing what charge if any is appropriate, the principles the GCRA propose to apply in reviewing the GEL standby charge are to seek to ensure any charge is:

- Fair;
- Does not distort the market; and
- Is proportional and practical.

The first question asked was as follows:

“Q1. Do respondents agree that with CICRA’s proposed principles for reviewing the GEL standby charge? If the respondent has alternative views or relevant evidence, the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform CICRA’s consideration and next steps.”

The States Trading Supervisory Board’s response recognised a risk that the standby charge discourages uptake of embedded generation and the development of competition in the sector. It also noted that changes to tariffs in one area may risk increases in others. Removing or zero rating the standby charge in isolation would in its view risk introducing unfairness into the market-place as other customers who are unable to install or afford embedded generation would be cross-subsidising those who can.

The GEL response did not agree with the principles proposed by the GCRA in the Call for Information and in particular that the review should proceed in two stages i.e. an interim period during which standby charges would be suspended, and then the full review. GEL considers that the standby charge reviewed in isolation was a very poor second best to a full review of its tariffs and favoured a full review of its tariffs. GEL does not accept the view that it is proportionate for the GCRA to address itself to the standby charge in isolation and considers that the GCRA’s approach set out in its Call for Information will distort the market. It is of the view that some customers will as a result make investment decisions when in the future any benefits may disappear under a future tariff structure.

The response from the Committee for the Environment & Infrastructure stated that it is mindful of the need for investment to maintain and develop infrastructure on island in order to support growth and productivity, and is cognisant of the importance of secure energy supplies to support the priorities of other Committees and the States of Guernsey. The Committee is broadly content with the GCRA’s principles for reviewing the GEL standby charge, but suggests the principle of fairness should be elaborated further to extend to the

principle of being socially equitable also. It also places value on the GCRA's review not prejudicing any change and that the regulatory regime supports any forthcoming policy. The Committee emphasises the need to be sensitive to the potential impact on energy consumers, with a key concern being that energy is provided in a way that is fair and socially equitable to all consumers. The requirement for the retrospective application of any standby charge (or an appropriate equivalent) is considered by the Committee to be an important means of ensuring the principle of minimal distortion is upheld as is the need for any substantive review to support a longer term price setting within defined timescales.

The response from a group of members of the public emphasised the importance of expectations in terms of long term stability of buy-back rates. While the Call for Information relates to standby charges, the points regarding the principles for reviewing buy-back rates have been taken to apply to standby charges.

The response from Ancala Partners LLP (the investment manager who represents the investors who own Guernsey and Jersey Gas) confirmed that its investors give their unanimous support for the review into standby charges and for a fair and pragmatic solution to be found. In particular, its understanding of the standby charge as applied by GEL was that it was not cost effective, was charged irrespective of output from the off-grid which resulted in double charging, lacked transparency, and was not being implemented in the UK and many other European countries.

The response from Intersurgical did not comment on the principles set out in the Call for Information.

The IEG response confirms agreement with the stated objectives of achieving fairness and transparency, and suggests a key principle that CICRA should observe is avoidance of distortionary effects on the market. IEG also states that it believes that GEL's standby charge is hindering progress of energy liberalisation for customers in Guernsey. Further it believes GEL is currently unable to demonstrate that the charge is cost reflective, and is being applied fairly and in a manner that does not distort the market. In terms of the fair distribution of risk, IEG considers the burden of proof must be on GEL to justify any charge and that ultimately GEL is making it imperative for CICRA to undertake a full regulatory cost analysis.

GCRA Analysis

A key rationale for the standby charge is that it contributes to the cost that GEL bears for maintaining all necessary infrastructure and operating capability to meet demand at all times for all premises in Guernsey whether or not this is called upon (referred to as 'insurance costs' for simplicity). Such costs have features that suggest they would in general be a relatively constant cost attributable to most premises, though some sites might involve greater insurance costs than the average. Only customers who have self-generation capacity are required to pay GEL the standby charge. Where customers do not have self-generating capacity it is the GCRA's understanding that GEL essentially recovers those 'insurance costs' through a mixture of usage and standing charges. At this time the GCRA has not carried out any detailed examination to inform the extent of this insurance cost, whether it is reasonably attributed at the level of the customer or whether any benefits of self-generation are material and if so are recognised by GEL in setting that charge. Nor indeed has GEL any published

information justifying the level of charges, notwithstanding their justification of the need to charge for the provision of backup supply.² Their tariff is stated in their response to be 20 years old, during which time substantial changes in technology and operating circumstances have occurred.

In general, given that the primary revenues of GEL are derived from usage charges rather than standing (fixed) charges, the less electricity any customer uses (whether or not they have self-generation capacity installed), the less GEL recovers by way of a contribution to the 'insurance costs' of each site. If the 'insurance cost' is relatively fixed for each site this means that customers using larger amounts of electricity might be contributing more than those using less. This of itself would not be problematic and indeed many businesses employ similar pricing models so cross subsidisation is not particular to markets where there is dominance. It is arguably the case that this type of cross-subsidisation has benefits with regard to the aim of being socially equitable suggested by the Committee for Environment and Infrastructure.

There are however some anomalies in how the standby charge is currently applied. An example is a highly variable self-generation source such as photovoltaic technology. This depends on the level of sunlight and will vary a lot as a result, particularly between summer and winter months. This will provide a substitute for less electricity from GEL than say a combined heat and power technology source, which is more constant. GEL will continue to receive revenue (albeit less) from usage and standing charges from a customer that chose a photovoltaic self-generation technology, and so make some contribution to 'insurance costs'. Yet GEL requires that customer to pay the same amount in standby charges as a customer that chose a combined-heat and power self-generation technology with the same capacity and which never pays usage or standing charges to GEL.

Another example where customer choice leads to a materially different outcome for GEL but GEL's approach to charging has a materially different cost to that customer through its approach to charging is when electricity heating is replaced with oil or gas. This would be expected to significantly lower electricity usage and therefore reduce the contribution to GEL's 'insurance costs' by that customer. But such customers are not subject to a standby charge despite leading to the same outcome for GEL.

There are therefore instances where there is reason to consider that the level the standby charge is set and how it is applied might be unfair.

The question then arises how, within the constraints imposed on the GCRA, does the GCRA deal with the matter at hand in a way that avoids or reduces distortions to the market in circumstances where there is reason to believe the practical effect of the GEL standby charge as currently applied is unfair.

The GCRA recognises that self-generation implies a reduction in the revenue received by GEL which, all things being equal, reduces the contribution to meeting its 'insurance costs'. There is therefore a presumption that a means of recovering that revenue will be needed. After all, if all premises in Guernsey employed self-generation technologies, if they choose not to be

² For the purposes of this Call for Information, GEL was not expected to evidence whether the existing charge is fair and reasonable on the basis that this was an interim resolution and not intended to lead to a decision on a more permanent level of price control of the tariff.

permanently disconnected from the grid, GEL would need to maintain all necessary infrastructure and operating capability to meet demand at all times for all premises in Guernsey whether or not this is called upon.

GCRA Conclusion

The GCRA will assess what charge if any is appropriate bearing in mind the key principles i.e. the GCRA will seek to ensure any charge is (a) fair, (b) does not distort the market; and (c) is proportionate and practical.

7.3 Proposed Standby Charge Rate

The GCRA proposed that GEC will be required to reduce standby charges to zero pending the review of the charge. The second question was as follows:

“Q2. Does the respondent agree with CICRA’s proposal to set the standby charge applied by GEL to zero pending the review of the charge? If the respondent has alternative views or evidence, including suggestions on benchmarking, the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform CICRA’s consideration and next steps.”

The States’ Trading Advisory Board response was that reducing the charge to zero, albeit as an interim measure, was both premature and prejudicial to a pending review by GEL. Even as an interim measure it was considered that the market will become distorted as other customers chose to move to embedded generation who may not understand or know that the zero rating of the standby charge is temporary and may be reapplied. It was suggested a more proportionate response would be for IEG and GEL to enter into a ‘special agreement’ which was available under Section 16 the Electricity Law.

GEL did not agree to the reduction of the standby charge to zero and recommended that the standby charge remains unchanged for now. GEL believed benchmarking to those rates as set by JEC was not helpful, it being too simplistic an approach to compare the two islands. Overall, it stated that the GCRA’s decision to temporarily suspend the charge was based on factual inaccuracy, that there was no indication as to how long the interim stage would last, and there was procedural unfairness in the process. GEL noted that it was proposing to undertake a review of its own tariffs and charges and, subject to shareholder approval, is working towards February 2019 as a date for having the new tariffs available for review by the GCRA. Its response included a statement that the impact of reducing the standby charge to nil would not be immaterial to them as suggested by IEG. GEL also suggests that a more proportionate and less misguided approach would be for parties to enter into a special agreement through Section 16 of the Electricity Law.

As regards the response from the Committee for the Environment & Infrastructure, they appreciate the attention and are looking at policy development in this area.

IEG strongly agreed with the GCRA’s proposal to set the standby charge at zero. In its view, this would enable competition in the electricity market place whilst causing little impact on

GEL's overall business and income as IEG's anticipated market penetration would be small in comparison with the overall market and would have no impact on cost structure and would benefit islanders. IEG requested a grandfathering provision when setting the standby charge as contracts are long term and it would avoid the position of potentially being forced to suffer a loss for a significant time if standby charges were subsequently adjusted. Finally, IEG considered that whilst benchmarking to Jersey might be useful it should be approached with a degree of caution. Instead, it suggested referring to Europe as a result of GEL sourcing the majority of its electricity from France and because Europe is promoting distributed generation schemes and driving carbon emissions down.

Ancala Partners LLP did not comment on whether the rate should be zero or provide an alternative view, but its general comments on the standby charge in its current form are addressed above.

The group of members of the public confirmed their belief that the standby charge should be set at zero until the formal review is complete.

Intersurgical expressed its view that it could not see how standby charges were any longer viable.

GCRA Analysis

The current level of the charge is £6.8594 per kW of installed generating capacity per month. The Call for Information indicated this was high in comparison to elsewhere, that standby charges are not common in other jurisdictions, and there appeared to be no historic justification for the specific level of the charge applied by GEL. Indeed its existence at the same level for 20 years suggests that it is likely no longer to be appropriate given the changes in technology and costs in that time. The rationale for such a category of charge, namely the provision of the infrastructure required to provide the standby service did however seem reasonable. Responses to the Call for Information have not altered these views.

Working on the presumption that some charge may be incurred, the GCRA considers that it may not be appropriate to set the rate at zero but rather to consider imposing some level of maximum standby charge. In circumstances where the GCRA considers it needs to act urgently to address the concerns with the current rate, and in any event prior to the completion of a full review which is anticipated to take a number of months, an alternative approach is to set a benchmarked figure on an interim basis. To minimise any risks this approach may cause, the parties would be required to provide a tightly worded commitment to make good any shortfall suffered by GEL or its customers.

The GCRA notes the comments made with regards to the adoption of the benchmarking approach by setting the standby charge in line with that applied in Jersey. Whilst normally a full review would be conducted, this is an unusual position the GCRA finds itself in and in the circumstances benchmarking is the more appropriate method to apply as a temporary measure. On balance, given the close ties between the two islands and their similar environments, Jersey appears the most suitable jurisdiction against which to benchmark, notwithstanding that GEL considers certain elements of their situations to be dissimilar.

In relation to the suggestion that IEG and GEL seek to enter into a “special agreement” in accordance with Section 16 of the Electricity Law, as noted above the fact is that IEG has been a licensee since 30 August 2017 and since then has not been able to reach a commercial arrangement with GEL.

GCRA Conclusion

The GCRA’s proposed reduction in Standby Charges is as follows:

Date	Standby Charge
Current rate	£6.8594 per kW for installations exceeding 25kW
From effective date of decision to further direction following review	£3.07 per kW
Further direction	tbc

7.4 Dominance of GEL in the markets concerned

GEL is the incumbent in the market for conveyance, supply and generation of electricity in the Bailiwick of Guernsey. Two licensees are active in the sector, including GEL, although the other licensee, IEG, does not currently have a substantial share of any of the above categories in the Bailiwick. As such, we consider that GEL continues to be dominant as determined by the OUR in its decision 03/07. The GCRA does not consider a full market review to be required to make such a determination and is therefore minded to confirm the finding of dominance of GEL as stated in OUR 03/07 in all material regards, subject to any necessary amendments to take account of a single sector entrant with limited market share.

7. Draft Decision

The GCRA is inclined to find that GEL continues to be dominant in all the activities that constitute the electricity supply chain under the current legislative framework. These are:

- the generation of electricity;
- the conveyance of electricity across the electricity network; and
- the supply of electricity directly to homes and businesses.

These terms are referenced in the Electricity Law and govern the current licensing framework as outlined above.

The GCRA proposes to issue a direction to GEL under Condition 20.1 of GEC's licence as follows:

1. The rate charged by the relevant licensee for standby charges for embedded electricity generation shall be no more than £3.07/kW/month;
2. This is a flat rate (i.e. no time of day or weekend distinction);
3. This rate is only applicable where the parties agree to reimburse the other should a subsequent regulatory decision (or of comparable legal standing) set a different rate. The wording for that agreement is as follows:

*"In consideration of [customer's name]'s accepting the rate as set by the Guernsey Competition and Regulatory Authority (the **GCRA**) in Final Decision [Ref], the [customer's name] undertakes to reimburse Guernsey Electricity Limited (**GEL**) to the extent that over the relevant period the GCRA determines that a higher rate for standby charges should have been set following the GCRA's receipt of a full review on the same tariff.*

GEL further agrees to reimburse the [customer's name] to the extent that over the relevant period the GCRA determines that a lower rate for standby charges should have been set following the GCRA's receipt of a full review on the same tariff.

In either case the amount to be reimbursed is the difference in the charges which would have been applied if the finally determined rate had been applied over the relevant period and that which was actually charged in the relevant period in accordance with Final Decision [Ref].

For the purposes of this agreement, the relevant period shall be defined as the date from which the rate as set in the Final Decision [Ref] is charged to [customer's name] until the new rate as set by the GCRA is charged to [customer's name]."; and

4. For the avoidance, nothing in this direction is intended to preclude GEL from entering into an arrangement with any customer or other party which sets a charge to cover

the provision of a standby service at any lower or higher rate, fixed for any period, if the parties were to agree to such a charge between themselves.

The directions shall be deemed to have come into effect on 28 calendar days after the Final Decision is issued in the statutory process, and shall expire following further direction on the rate to be applied.

8. Next Steps

The GCRA will consider the responses it receives to this Draft Decision and after its own assessment will issue its Decision. The statutory process will then continue towards setting a standby charge rate.

While the GCRA considers any Decision made as part of the pre-statutory process to be the starting point for later parts in the process and as a statement of its current expectations, no Decision is binding on the GCRA or on GEL until such time as it has been included in the statutory process.